



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

IN THE MATTER OF:

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Docket No. PWS-AOC-2019-6003

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Village Mobile Home Park

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Public Water System,

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)

ADMINISTRATIVE ORDER

Respondent.

)

ON CONSENT

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)

California PWS ID No. CA1900520

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)

Proceedings pursuant to Sections 1414(g) of the
Safe Drinking Water Act, 42 U.S.C. § 300g-3(g).

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I. INTRODUCTION

1. The United States Environmental Protection Agency, Region IX (EPA) and In Myung Lee and Nancy Hyonam Lee (together, "Respondents") joint tenants and owners of the Village Mobile Home Park public water system (the "System") enter into this Administrative Order on Consent ("Consent Order") for the purpose of bringing Respondents' System located at 231 West Avenue G, Lancaster, CA 93534 and referred to as PWS ID No. CA1900520 into compliance with the requirements of the

federal Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f *et seq.*, and its National Primary Drinking Water Regulations (NPDWRs), 40 C.F.R. Part 141.

2. EPA and Respondents recognize that this Consent Order was negotiated and entered into in good faith.

II. JURISDICTION

3. EPA enters into and issues this Consent Order under the authority vested in the EPA Administrator by Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), which in turn has been delegated to the Director of EPA Region IX's Enforcement and Compliance Assurance Division.
4. EPA and the Respondents enter into this Consent Order voluntarily. Respondents agree not to contest EPA's authority or jurisdiction to issue this Consent Order in this or in any subsequent proceeding to enforce the terms of this Consent Order. This Consent Order constitutes an enforceable agreement between the Respondents and EPA.
5. The State of California ("State") has primary enforcement responsibility for public water systems in the State and EPA has notified the State of this enforcement action in accordance with Sections 1414(a) and (g) of the SDWA, 42 U.S.C. §§ 300g-3(a) and (g).

III. DEFINITIONS

6. "Consent Order" shall mean this document, all attachments hereto, all subsequent modifications, and all submissions required by this Consent Order and approved by EPA.
7. "Day" shall mean a calendar day unless otherwise specified. In computing a prescribed period of time, the day of the event shall not be included. In computing any period of time under this Consent

Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

8. "Maximum Contaminant Level" ("MCL") shall mean the maximum permissible level of a contaminant in water which is delivered to any user of a public water system, as further defined at 40 C.F.R. § 141.2.

IV. EPA FINDINGS OF FACTS AND CONCLUSIONS OF LAW

EPA makes the following Findings of Facts and Conclusions of Law:

9. Respondents are a "person" within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2 and a "supplier of water" as that term is defined in Section 1401(5) of the SDWA and 40 C.F.R. § 141.2.

10. Respondents' System provides daily water service to approximately 34 service connections or 63 residents in the City of Lancaster, Los Angeles County, State of California.

11. The System provides water for human consumption through pipes and has at least 15 service connections and therefore meets the definition of a "public water system" in Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4).

12. The System serves at least 25 year-round residents and thus qualifies as a "community water system" ("CWS") within the definition in Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15), and 40 C.F.R. § 141.2.

13. The System's source of drinking water is groundwater from one well that hereinafter will be referred to as "Well 01."

14. Respondents own and operate the System and as a “supplier of water,” thus must generally comply with the requirements of Part B of the SDWA, 42 U.S.C. § 300g *et seq.*, and its NPDWRs, which include the MCLs for contaminants set forth at 40 C.F.R. § 141.62.

15. The MCL for arsenic set forth at 40 C.F.R. § 141.62(b) is 0.010 milligrams per liter (mg/L) (or 10 micrograms per liter (ug/L)).

16. The State, acting through its California State Water Resources Control Board – Division of Drinking Water (SWRCB), has primary enforcement responsibility under Section 1413(a) of the SDWA, 42 U.S.C. § 300g-2(a), to ensure that public water systems in California comply with the applicable requirements of the SDWA.

17. SWRCB has delegated to Los Angeles County Department of Public Health (“LA County”), primary enforcement responsibility under Section 116330 of the California Health and Safety Code, Division 104, Part 12, Chapter 4, California SDWA, to ensure that suppliers of potable water with service connections 199 or fewer within LA County comply with the requirements of the SDWA. LA County has primacy for many, but not all, of the public water systems in LA County. Those public water systems not under the jurisdiction of LA County remain under the jurisdiction of SWRCB. Respondents’ System located within the exterior boundaries of Los Angeles County California has approximately 34 service connections. Therefore, the System is under the jurisdiction of LA County. However, SWRCB retains oversight enforcement authority over all public water systems in California regardless of local primacy delegation.

18. On April 30, 2018, SWRCB requested that EPA pursue enforcement against the Respondents of the SDWA violations described below.

19. On December 11, 2018, pursuant to Section 1414(a)(1) of the SDWA, 42 U.S.C. § 300g-3(a)(1), EPA issued a Notice of Violation to Respondents of the following violations:

Violations of Arsenic MCL

20. 40 C.F.R. § 141.23 requires CWS to conduct monitoring to determine compliance with the arsenic MCL specified at 40 C.F.R. § 141.62(b).

21. Pursuant to 40 C.F.R. § 141.23(i)(1), compliance at a public water system conducting arsenic monitoring at a frequency greater than annually is determined by the running annual average (RAA). If the RAA for any sampling point is greater than the MCL, then the system is out of compliance; if any one sample would cause the MCL to be exceeded on an RAA, then the system is out of compliance immediately. If a system fails to collect the required number of samples, compliance is determined based on the total number of samples actually collected.

22. Respondents' System has been out of compliance with the arsenic MCL of 10 ug/L since January 23, 2006. Within the last 5 years, the System has remained out of compliance based on the analytical results of Respondents' arsenic sampling at the System's sampling point at Well 01, as set forth in the table below:

WELL 01

Year	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter 1 st	Running Annual Average (ug/L)
2019	43	-	-	-	43.3
2018	42	43	44	43	43
2017	46	46	47	41	45
2016	44	49	43	42	44.5
2015	45	46	40	44	43.8

V. COMPLIANCE PROVISIONS

Based on the foregoing findings and pursuant to its authority under Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), Respondents agree and is hereby ORDERED to conduct the following activities:

23. **Letter of Intent:** No later than fifteen (15) days from this Consent Order's Effective Date, Respondents shall transmit to EPA a letter summarizing any steps already taken by Respondents to comply with this Consent Order, the SDWA, and its implementing regulations at 40 C.F.R. Part 141, *i.e.*, the NPDWRs.

24. **Arsenic Compliance Plan:** Within ninety (90) days from this Consent Order's Effective Date, Respondents shall submit to EPA, at the address provided below, a draft written plan (the "Arsenic Compliance Plan") for EPA's approval that describes in detail the steps Respondents will follow to remedy the arsenic violations noted above. The Arsenic Compliance Plan shall become an enforceable part of this Consent Order upon approval by EPA. At a minimum, the plan shall include the following elements:

- a. A description of funding sources that Respondents will access or apply for to comply with the arsenic MCL, including but not limited to accessing personal or private funding or drinking water state revolving fund or state proposition funding.
- b. Identification of a water operator for the System who possesses operator certification credentials and who has the appropriate training to make operational decisions and an understanding of the rules and regulations of the SDWA necessary to maintain compliance;
- c. A description of the planning and/or construction milestones necessary for completing steps to ensure the timeliness and accountability of the selected compliance measures

(e.g., milestones for drilling new well(s), well rehabilitation, installing arsenic treatment, or public water system consolidation efforts, to name a few options); and

- d. A description of how Respondents will provide adequate alternative water to customers by August 1, 2019 until the System achieves compliance with the arsenic MCL.

25. Upon receipt of the draft Arsenic Compliance Plan, EPA will (i) approve the draft Arsenic Compliance Plan; (ii) approve the draft Arsenic Compliance Plan upon specified conditions; (iii) approve in part the draft Arsenic Compliance Plan and disapprove the remainder; or (iv) disapprove the draft Arsenic Compliance Plan. If EPA disapproves all or part of the draft Arsenic Compliance Plan, it will provide written comments to Respondents explaining the reason(s) for its disapproval and identifying necessary modifications to the plan. Respondents shall, within fifteen (15) days of receipt of comments from EPA, incorporate the modifications and resubmit this revised draft Arsenic Compliance Plan to EPA for approval.

26. **Compliance with the SDWA:** Respondent shall implement the approved Arsenic Compliance Plan expeditiously and comply with all milestones, deadlines, and other requirements described in the Plan by June 30, 2021. Respondents also shall provide drinking water from the System to all of its customers that meets the arsenic MCL RAA by June 30, 2022.

27. **Continuous Compliance with the Arsenic MCL:** Following Respondents' initial compliance with the arsenic MCL, Respondents shall maintain continuous compliance with the arsenic MCL for all water the System serves to its customers for human consumption.

28. **Sampling and Analysis:** Respondents shall demonstrate its continuous compliance with the arsenic MCL by having its drinking water samples analyzed by an EPA-certified laboratory in accordance with 40 C.F.R. § 141.28.

29. **Increased Sampling and Analysis:** Respondents shall comply with any additional and/or more frequent arsenic sampling and analysis requirements determined necessary by EPA following written notice by EPA of any such requirements in accordance with 40 C.F.R. § 141.23(g).

30. **Reporting of the Sample Results:** Respondents shall ensure the results of all its monitoring, including laboratory analysis including and any additional samples not required by this Consent Order, are submitted to EPA either within ten (10) days of receipt of the results from the laboratory or within ten (10) days following the end of the required monitoring period, whichever is sooner.

31. **Reporting of Public Notification and Certification Form:** Respondent shall continue to provide public notice for arsenic every three months as required by and consistent with 40 CFR 141.203(b) and 141.205. Not less than 45 days prior to issuing the first two such notices after the Effective Date of this Consent Order. Respondent shall submit the proposed draft public notices to EPA for review and approval. Within 15 business days of receipt of the draft notice, EPA shall notify Respondent that EPA has either approved the draft public notice or approved the draft public notice subject to specified changes that Respondent shall make to the notice prior to issuing it. The format and content of subsequent public notices shall conform to the notices approved by EPA. Within 10 days of completing each public notice required by 40 CFR 141.31(d) and 141.201(c)(3), Respondent shall submit to EPA and SWRCB a copy of the public notice and a certification statement that all public notice requirements have been met.

32. **Quarterly Progress Reports:** Respondents must submit written reports to EPA that describe Respondents' progress in implementing its Compliance Plan during the previous quarter. The first Quarterly Progress Report is due by August 15, 2019. Subsequent reports are due ten (10) days after the last day of every calendar quarter thereafter, *i.e.*, the second Quarterly Progress Report is due

October 10, 2019. Respondents must submit Quarterly Progress Reports until otherwise directed by EPA or the termination of this Order.

33. **Quarterly Meetings:** Respondents must convene quarterly meetings (by teleconference or at a centralized meeting location) and invite the SWRCB and the EPA to discuss among other things the following SDWA compliance measures:

- a. The adequacy of Respondents' compliance with the Consent Order and the approved Arsenic Compliance Plan;
- b. Establish any necessary managerial and governance protocols that will assist in Respondents' compliance with the Consent Order and the approved Arsenic Compliance Plan; and
- c. How to best promote long-term and efficient drinking water compliance at the System.

The first meeting must be held at a date to be determined by Respondents in August of 2019. Invitations to this first meeting must be provided at least fifteen (15) days in advance. Subsequent meetings must be convened before the last week of the last month of every quarter thereafter. Respondents agree to work around any calendar conflicts identified by agency staff in setting dates for the meetings.

34. **Delays:** If any event occurs that causes or is likely to cause delay in the achievement of any requirement or time frame specified in this Consent Order, Respondents shall notify EPA in writing, within ten (10) business days of learning of such event, of the anticipated length and cause of the delay, whether the delay constitutes a *force majeure* event, as defined in Paragraph 38, the measures Respondents have taken and/or to be taken to prevent or minimize the delay and the timetable by which Respondents intend to implement these measures and achieve the requirement or meet the time frame. Respondents shall adopt all reasonable measures to avoid or minimize delay. Submittal

of the notice to EPA required by this paragraph does not extend any deadline or time frame in this Consent Order.

35. If, upon receiving the notice required under Paragraph 35, EPA agrees that the delay or anticipated delay in compliance with this Consent Order has been or will be caused by circumstances that constitute a *force majeure* event as defined in Paragraph 40, the compliance date may be extended for a period of time no longer than the delay resulting from the circumstances causing the delay. In such event, the EPA Enforcement and Compliance Assurance Division may grant an extension of time.

36. Respondents have the burden of demonstrating, by a preponderance of the evidence, that the actual or anticipated delay has been or will be caused by a *force majeure* event, that the duration of the delay was or will be warranted under the circumstances, that Respondents have exercised or is using its best efforts to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of this section.

37. "*Force majeure*," for purposes of this Consent Order, is defined as any event arising from causes beyond Respondents' control, or of any entity controlled by Respondents, or of Respondents' contractors, which delays or prevents the performance of any obligation under this Consent Order despite Respondents' reasonable best efforts to fulfill the obligation. The requirement that Respondents exercise "reasonable best efforts to fulfill the obligation" includes using reasonable best efforts to anticipate any potential *force majeure* event and reasonable best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. Examples of events that are not *force majeure* events include, but are not limited to, increased costs or expenses of any work to be performed under

this Consent Order, failure to diligently pursue funding source(s) including federal and state funding sources for work to be performed under this Consent Order, or normal inclement weather.

38. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this Consent Order has been or will be caused by a *force majeure* event, EPA will notify Respondents in writing of its decision and any delays will not be excused.

39. **Additional Information**: Respondents shall submit to EPA such additional documents and information as EPA may reasonably request to determine Respondents' compliance with this Consent Order.

40. All submittals to EPA made pursuant to this Consent Order must be accompanied by the following certification signed by Respondents' representative:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person(s) who managed the system, or of person(s) directly responsible for gathering the information, I certify that the information is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

41. Respondents must submit all information required under this Consent Order to:

Everett Pringle, Enforcement Officer Enforcement Compliance & Assurance Division U.S. Environmental Protection Agency – Region IX 75 Hawthorne Street (ENF-3-3) San Francisco, CA 94105 Phone: (415) 972-3548 Fax: (415) 947-3591	Lusi Mkhitarian, REHS, MD, MPH Chief Environmental Health Specialist Department of Public Health/Environmental Health Division Environmental Protection Branch Drinking Water Program 5050 Commerce Drive Baldwin Park, CA 91706 Phone: (626) 430-5420 Fax: (626) 813-3016 E-mail: lmkhitarian@ph.lacounty.gov
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VI. GENERAL PROVISIONS

42. Subject to delays associated with *force majeure* delays, Respondents shall fully implement each item of this Consent Order, including meeting the compliance schedules provided for in the EPA-approved Compliance Plan. Respondents' failure to fully implement all requirements of this Consent Order in the manner and time periods required shall be deemed a violation of this Consent Order and the SDWA.

43. Respondents' failure to comply with all of the applicable requirements of the SDWA and 40 C.F.R. Part 141 may subject it to additional enforcement actions, including but not limited to judicial or administrative actions.

44. This Consent Order constitutes the entire agreement of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Order. This Consent Order, however, will not prohibit, prevent, or otherwise preclude EPA from taking whatever action(s) it deems appropriate to enforce the SDWA in any manner and will not prohibit, prevent, or otherwise preclude EPA from enforcing or using this Consent Order in subsequent administrative proceedings. Nothing in this Consent Order constitutes a waiver, suspension or modification of the requirements of the SDWA, or the rules and regulations promulgated thereunder, which remain in full force and effect. Issuance of this Consent Order is not an election by EPA to forgo any civil or administrative action otherwise authorized under the law.

45. Violations of any term of this Consent Order may subject Respondents to (i) a civil action brought in the appropriate United States district court to require compliance with the applicable requirements of the SDWA and this Consent Order, pursuant to Section 1414(b) of the SDWA, 42 U.S.C. § 300g-3(b); (ii) a civil judicial penalty of up to \$55,907 per day of violation, as assessed by

the appropriate United States district court, pursuant to Sections 1414(g)(3)(A) and (C) of the SDWA, 42 U.S.C. §§ 300g-3(g)(3)(A) and (C), and 40 C.F.R. § 19.4, or (iii) an administrative penalty of up to \$38,954 after notice and opportunity for hearing, pursuant to Sections 1414(g)(3)(A) and (B) of the SDWA, 42 U.S.C. §§ 300g-3(g)(3)(A) and (B).

46. This Consent Order does not relieve Respondents of any responsibilities or liabilities established pursuant to any applicable local, state, or federal law.

47. The provisions of this Consent Order are severable. If any provision of this Consent Order is found to be unenforceable, the remaining provisions will remain in full force and effect.

48. The provisions of this Consent Order are binding upon Respondents and their successors or assigns.

49. Providing false or misleading information may subject Respondents to civil or criminal enforcement, or both.

50. Respondents waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondents may have with respect to this Consent Order, including any right of judicial review under Section 1448(a) of the SDWA, 42 U.S.C. § 300j-7(a).

51. This Consent Order may be amended or modified by written agreement of EPA and Respondents.

52. Except for any data, reports, records, documents, and information required by this Consent Order, Respondents may assert business confidentiality claims under 40 C.F.R. Part 2, Subpart B for any other information (in whatever form) provided to EPA or may assert that such information is privileged as recognized by and consistent with federal law.

53. Respondents' undersigned signatory certifies to his or her authority to execute this Consent Order and to legally bind the Respondents to the terms of this Consent Order.


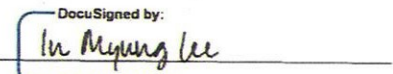
VII. EFFECTIVE DATE AND TERMINATION

54. This Consent Order shall become effective five (5) business days after signature by the EPA and will remain in effect until Respondents demonstrate compliance with the terms and conditions of this Consent Order and are granted termination pursuant to Paragraph 56. Within 5 business days of signing the Consent Order, EPA will provide a copy of the fully executed Consent Order to Respondents.

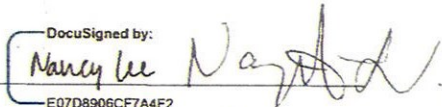
55. After one year of completing all conditions of this Consent Order, Respondents may request in writing that EPA terminate this Consent Order. Such request shall include a discussion of why termination is appropriate. EPA shall either agree to the request and terminate this Consent Order, or reject the request and provide a written response to Respondents containing EPA's reasons for not terminating the Consent Order. EPA's decision not to terminate the Consent Order shall not foreclose Respondents' opportunity to make additional termination requests at a later date.

IT IS SO AGREED AND ORDERED:

For Respondents' Village Mobile Home Park:

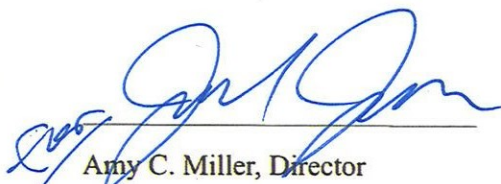

DocuSigned by:

1615D23B888E489
In Myung Lee, Owner
Village Mobile Home Park

Date: 7/8/2019

DocuSigned by:

E07D8906CF7A4F2
Nancy Hyonam Lee, Owner
Village Mobile Home Park

Date: 7/8/2019

For U.S. Environmental Protection Agency – Region IX:


Amy C. Miller, Director

Date: 8-2-19

Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency – Region IX